

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DANIEL WAYNE SALISBURY, SR.,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:16-CV-173
(GROH)**

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge Michael J. Aloï [ECF No. 15], entered on November 15, 2017, to which neither party filed objections.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the R&R to which objection is made. However, failure to file objections permits the district court to review the R&R under the standard that it believes to be appropriate, and under this circumstance, the parties’ right to *de novo* review is waived. See Webb v. Califano, 468 F. Supp. 825, 830-31 (E.D. Cal. 1979).


Pursuant to Magistrate Judge Aloï’s R&R, as well as 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 6, objections were due within fourteen days after entry of the R&R. Accordingly, because no objections have been filed, this Court will review the R&R for clear error.

In this matter, Magistrate Judge Aloï found that the administrative law judge's decision was not supported by substantial evidence. Accordingly, it is the opinion of this Court that Magistrate Judge Aloï's Report and Recommendation [ECF No. 15] should be, and is, hereby **ORDERED ADOPTED**. For the reasons more fully stated in the Report and Recommendation, this Court **ORDERS** that the Defendant's Motion for Summary Judgment [ECF No. 12] is **DENIED** and the Plaintiff's Motion for Summary Judgment [ECF No. 10] is **GRANTED**. Moreover, The Court **ORDERS** that this matter be **REMANDED** for further action in accordance with the R&R.

Pursuant to Federal Rule of Civil Procedure 58, the Clerk is **DIRECTED** to enter a separate order of judgment in favor of the Plaintiff and to transmit copies of this Order to all counsel of record herein.

It is so **ORDERED**.

DATED: December 8, 2017


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE